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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/884,651	06/19/2001	Brent D. Emerson	DSCK-1224-C1	3488

7590 06/11/2002  
LORUSSO & LOUD  
440 COMMERCIAL STREET  
BOSTON, MA 02109

EXAMINER

HUNTER, ALVIN A

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/884,651

Applicant(s)

EMERSON ET AL.

Examiner

Alvin A. Hunter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasashima et al. (USPN 6241627) in view of Kennedy, III et al. (USPN 6325731).

Kasashima et al. discloses a golf ball having a plurality of dimples in a regular icosahedron having 20 triangles to increase flight performance (See Abstract and Figures 1 and 2). The dimples in each triangle constitute an arrangement unit (See Column 2, lines 10 through 18). It is also note that the number of dimples are not critical but the number of dimples are preferred being 362 to 462 (See Column 3, lines 45 through 49). The first dimple has a diameter of 2 to 4 mm and a depth of 0.05 to 0.20 and the other dimples have a diameter of 3.0 to 5.0mm and a depth of 0.1 to 0.3mm (See Column 4, lines 29 through 33). Figure 2 shows a golf ball having no dimples intersecting the great circle line. The triangles are set side by side with the vertices starting at the poles (See Figures 1 and 2). It is also noted that the dimple arrangement as set forth in Figure 1 may be adjusted without departing for the ranges set forth. Therefore, to have any number of rows within the triangle would constitute as a design choice. Kasashima et al. does not disclose the golf ball having a core having a PGA compression of 75 to 89 and cover having a Shore D hardness of 42 to 60. Kennedy, III

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et al. discloses a multi-layer golf ball having soft feel and high spin rates comprising a core and an outer cover (See Abstract). The core has a PGA compression of 100 or less and more preferably a PGA compression of 90 or less (See Column 22, lines 25 through 52). The outer cover has a hardness of 55 or less and more preferably 50 or less (See Abstract). The outer cover comprises a blend of 3 to 25% high modulus ionomer and 75 to 95% low modulus ionomer (See Column 16, lines 55 through 65; Column 18, lines 37 through 44; and Column 22, lines 24 through 28). The high modulus ionomer comprises ethylene and acrylic/methacrylic acid and the low modulus ionomer comprises a terpolymer of olefin having 2 to 8 carbon atoms, methacrylic acid, acrylic acid, or another  $\alpha$ ,  $\beta$ -unsaturated carboxylic acid, and an unsaturated monomer of the acrylic ester class having from 1 to 21 carbon atoms. In Table 9, of Column 20, the types of high modulus ionomers suitable for Kennedy, III et al. are listed, in which four types have a Shore D hardness less than 59. The cover also has a thickness of 0.01 to 0.10 inches (See Column 14, lines 24 through 50). One of ordinary skill in the art knows that combining a terpolymer with the above softens the composition; therefore, it would have been obvious to combine a high modulus ionomer with a low modulus ionomer, as taught by Kennedy, III et al., in order to produce a softer cover with the hardness desired by the user. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the golf ball of Kennedy, III et al. with the dimple arrangement of Kasashima et al. in order to optimize the flight performance of the golf ball.

***Double Patenting***

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-23 are rejected under the judicially created doctrine of obviousness-

type double patenting as being unpatentable over claims 1-22 of U.S. Patent No.

6383093 in view of Kennedy, III et al. U.S. Patent 6383093 discloses the same subject matter as that of the present application except for having a cover made of a copolymer and terpolymer. Kennedy, III et al. discloses a multi-layer golf ball having soft feel and high spin rates comprising a core and an outer cover (See Abstract). The core has a PGA compression of 100 or less and more preferably a PGA compression of 90 or less (See Column 22, lines 25 through 52). The outer cover has a hardness of 55 or less and more preferably 50 or less (See Abstract). The outer cover comprises a blend of 3 to 25% high modulus ionomer and 75 to 95% low modulus ionomer (See Column 16, lines 55 through 65; Column 18, lines 37 through 44; and Column 22, lines 24 through 28). The high modulus ionomer comprises ethylene and acrylic/methacrylic acid and the low modulus ionomer comprises a terpolymer of olefin having 2 to 8 carbon atoms, methacrylic acid, acrylic acid, or another  $\alpha$ ,  $\beta$ -unsaturated carboxylic acid, and an

unsaturated monomer of the acrylic ester class having from 1 to 21 carbon atoms. In Table 9, of Column 20, the types of high modulus ionomers suitable for Kennedy, III et al. are listed, in which four types have a Shore D hardness less than 59. One of ordinary skill in the art knows that combining a terpolymer with the above softens the composition; therefore, it would have been obvious to combine a high modulus ionomer with a low modulus ionomer, as taught by Kennedy, III et al., in order to produce a softer cover with the hardness desired by the user. Furthermore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the golf ball of Kennedy, III et al. with the dimple arrangement of U.S. Patent No. 6383093 in order to optimize the flight performance of the golf ball.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alvin A. Hunter whose telephone number is 703-306-5693. The examiner can normally be reached on Monday through Friday from 7:30AM to 4:00PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell, can be reached on (703) 308-2126. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7768.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

  
**Steven Wong**  
**Primary Examiner**